



[BILLING CODE: 6750-01S]

FEDERAL TRADE COMMISSION

[File No. 162 3063]

TaxSlayer, LLC; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of the Gramm-Leach-Bliley Act Privacy Rule, and of the Gramm-Leach-Bliley Act Safeguards Rule. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order -- embodied in the consent agreement -- that would settle these allegations.

DATES: Comments must be received on or before September 29, 2017.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: "In the Matter of TaxSlayer, LLC, File No. 1623063" on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/taxslayerconsent> by following the instructions on the web-based form. If you prefer to file your comment on paper, write "In the Matter of TaxSlayer, LLC, File No. 1623063" on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Katherine McCarron, (202-326-2333) and Jacqueline Connor (202-326-2844), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 29, 2017), on the World Wide Web, at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before September 29, 2017. Write “In the Matter of TaxSlayer, LLC, File No. 1623063” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <https://www.ftc.gov/policy/public-comments>.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/taxslayerconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you prefer to file your comment on paper, write “In the Matter of TaxSlayer, LLC, File No. 1623063” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex D), Washington, DC. 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Website at <https://www.ftc.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must

include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Website – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment from the FTC Website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before September 29, 2017. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from TaxSlayer, LLC (“TaxSlayer”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission again will review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter involves TaxSlayer, a company that advertises, offers for sale, sells, and distributes products and services to consumers, including TaxSlayer Online, a browser-based tax return preparation and electronic filing software and service. TaxSlayer Online assists consumers, typically for a fee, in preparing and electronically filing federal and state income tax returns. In 2016, more than 950,000 individuals filed tax returns using TaxSlayer Online.

TaxSlayer Online users create an account by entering a username and password (“login credentials”) on an account creation page. They then input a host of personal information in order to create a tax return, including but not limited to: name, Social Security number (“SSN”), telephone number, physical address, income, employment status, marital status, identity of dependents, financial assets, financial activities, receipt of government benefits, home ownership, indebtedness, health insurance, retirement information, charitable donations, tax payments, tax refunds, bank account numbers, and payment card numbers.

TaxSlayer Online uses this personal information to prepare tax returns on behalf of customers. Once a tax return is prepared, a customer can file the return electronically through TaxSlayer Online with the Internal Revenue Service (“IRS”) and state departments of revenue. If a customer is entitled to a refund, TaxSlayer offers the option of directing the refund into a customer’s bank account, or customers may elect to receive their refunds on a prepaid debit card.

The complaint alleges that TaxSlayer became subject to a list validation attack that began in October 2015. List validation attacks occur when attackers use lists of stolen login credentials to attempt to access accounts across a number of websites, knowing that consumers often reuse login credentials. In an unknown number of instances, the attackers engaged in tax identity theft by e-filing fraudulent tax returns and diverting the fabricated refunds to themselves.

The Commission's complaint alleges that TaxSlayer failed to comply with the Gramm-Leach-Bliley ("GLB") Act Privacy Rule in two ways. First, TaxSlayer failed to provide a clear and conspicuous initial privacy notice. TaxSlayer's Privacy Policy was contained towards the end of a long License Agreement, and TaxSlayer did not convey the importance, nature, and relevance of this Privacy Policy to its customers. Second, TaxSlayer failed to deliver the initial privacy notice so that each customer could reasonably be expected to receive actual notice. For example, TaxSlayer did not require customers to acknowledge receipt of the initial privacy notice as a necessary step to obtaining a particular financial product or service.

In addition, the complaint alleges that TaxSlayer engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security for sensitive information from consumers, in violation of the GLB Act Safeguards Rule. First, TaxSlayer failed to have a written information security program until November 2015. Second, TaxSlayer failed to conduct a risk assessment, which would have identified reasonably foreseeable risks to the security, confidentiality, and integrity of customer information, including risks associated with inadequate authentication. Third, TaxSlayer failed to implement information safeguards to control the risks to customer information from inadequate authentication.

The proposed order contains provisions designed to prevent TaxSlayer from engaging in practices similar to those alleged in the complaint. Part I prohibits TaxSlayer from violating any provision of the GLB Act Privacy Rule and Safeguards Rule. Part II of the proposed order requires TaxSlayer to obtain, within the first one hundred eighty (180) days after service of the order and on a biennial basis thereafter for a period of ten (10) years, an assessment and report from a qualified, objective, independent third-party professional, certifying, among other things, that: (1) it has in place a security program that provides protections that meet or exceed the

protections required by Part I.B of the order, and (2) its security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of sensitive consumer information has been protected.

Parts III through VII of the proposed order are reporting and compliance provisions. Part III requires dissemination of the order now and in the future to all current and future principals, officers, directors, and LLC managers and directors, and to persons with managerial or supervisory responsibilities relating to Parts I through IV of the order. Part IV ensures notification to the FTC of changes in corporate status and mandates that TaxSlayer submit an initial compliance report to the FTC. Part V requires TaxSlayer to retain documents relating to its compliance with the order for a five-year period. Part VI mandates that TaxSlayer make available to the FTC information or subsequent compliance reports, as requested. Part VII is a provision “sunsetting” the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order, or to modify in any way the proposed order’s terms.

By direction of the Commission.

Donald S. Clark
Secretary.

[FR Doc. 2017-18706 Filed: 9/1/2017 8:45 am; Publication Date: 9/5/2017]